JOHN L. HILL
ATTORNEY GENERAL

April 25, 1973

The Honorable David Finney   Letter Advisory No. 17
Chairman, Committee on State Affairs
P. O. Box 2910   Re: House Bill 169
Austin, Texas 78767

Dear Representative Finney:

On behalf of the State Affairs Committee of the House of Represen-
tatives, you have asked our opinion as to the constitutionality of House
Bill 169 which would require the Legislative Budget Board to establish a
system of audits to provide a continuing review of programs and opera-
tions of each state agency, commission, department, school, and insti-
tution and to make biennial reports to the Legislature covering the mat-
ters of its review.

The Bill appears to be in proper form and the only possible ques-
tion we can see is as to the legislative delegation of fact-finding duties
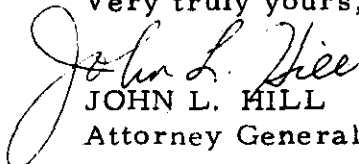to the Legislative Budget Board.

The Board was created by Acts, 1949, 51st Leg., Ch. 487, p. 908,
found now as Article 5429c, Vernon's Texas Civil Statutes. It is an arm
of the Legislature, composed of members of the Legislature and the
Lieutenant Governor, and charged with the responsibility of preparing a
budget of estimated appropriations.

Neither Section 1 of Article 2 of the Constitution of Texas, provi-
ding for a separation of powers, nor any other provision of the Consti-
tution prohibits the delegation by the Legislature to an administrative
body of the power to find facts where the Legislature itself cannot prac-
tically and efficiently exercise such power.

We see no reason therefore why the provisions of House Bill No.
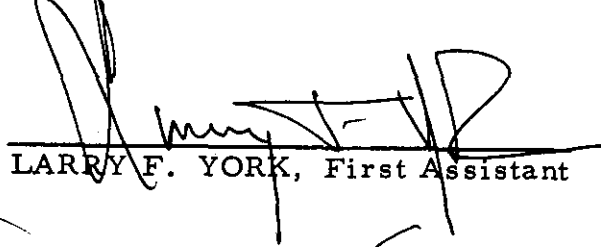169 should not be held constitutional.

Trimmier v. Carlton, 296 S. W. 1070 (Tex. 1927); Trapp v. Shell
Oil Co., 198 S. W. 2d 424 (Tex. 1946); Moody v. City of University Park,
278 S. W. 2d 912 (Tex. Civ. App., Dallas, 1955, err. ref., n. r. e.).

Very truly yours,

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Attorney General of Texas

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APPROVED:

LARRY F. YORK, First Assistant

DAVID M. KENDALL, Chairman
Opinion Committee